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Michael Anthony Dean

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EXAMINER

PICH, PONNOREAY

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL ANTHONY DEAN

Appeal 2008-1337
Application 09/594,100
Technology Center 2100

Decided: December 10, 2008

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-33. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

The invention at issue on appeal changes destination information used when transmitting data between a client and a server via an unsecured network. The destination information is mapped to another address at one end of the unsecured network. At the destination end of the unsecured network, the mapped addressed information is translated back to the real destination information. (Spec. 2.)

B. ILLUSTRATIVE CLAIM

Claim 11, which further illustrates the invention, follows.

11. A system for mapping destination information, comprising:
- a memory configured to store a mapping algorithm; and
 - a processor configured to:
 - receive in a first address translator a data packet including a first destination address, the first destination address representing a real destination address,
 - change the first destination address to a second destination address in the first address translator using the mapping algorithm, and
 - transmit the data packet with the second destination address to a second address translator.

C. PRIOR ART

Gelman	US 6,415,329 B1	July 2, 2002 (filed Oct. 30, 1998)
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D. REJECTION

Claims 1-33 stand rejected under 35 U.S.C. 102(e) as being anticipated by Gelman.

II. CLAIMS 11-20

When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

37 C.F.R. § 41.37(c)(1)(vii) (2006).¹

Here, the Appellant rely on the same argument for claims 11-20, which are subject to the same ground of rejection. (App. Br. 20-22). We select claim 11 as the sole claim on which to decide the appeal of the group. "With this representation in mind, rather than reiterate the positions of the parties in toto, we focus on the issue therebetween." *Ex parte Nikoonahad*, No. 2006-3247, 2007 WL 1591636, at *2 (BPAI 2007).

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

A. ISSUE

The Examiner finds that "[t]here is nothing recited in the claim which requires that the second destination address be 'included' in the data packet, i.e. as a data field in the packet." (Answer 17.) The Appellant argues "that the claim language itself guarantees that an address stays included in, or with, the data packet" (Reply Br. 3.) Therefore, the issue is whether the Appellant has shown that claim 11 requires including a second destination address in a data packet transmitted from a first address translator to a second address translator.

B. LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

C. FINDINGS OF FACT ("FFs")

1. Claim 11 recites in pertinent part the following limitations:
"transmit the data packet with the second destination address to a second address translator."

2. Gelman discloses "packets flowing from the source/client 10 to the destination/server 18." (Col. 9, ll. 8-9.)

3. A self-network address translator "SNAT 64A at the source gateway 12 changes the destination addressing information of unfragmented TCP [i.e., transport control protocol] packets received from the client such that the destination address becomes that of the source gateway 12 and the destination port is changed to that of the source gateway application 62A." (*Id.* ll. 9-14.)

4. "The source gateway application 62A receives the packets from the TCP layer 63A and [forwards] them to the WLP [i.e., wireless link protocol] layer 60A, which transmits them over the satellite link 44. On the other end of the satellite link 44, the destination gateway application 62B receives the packets" (*Id.* ll. 22-27.)

D. ANALYSIS

Although claim 11 recites that a data packet "includ[es] a first destination address," the claim does not specify that the data packet "includes" the second destination address. Instead, claim 11 merely specifies that the data packet "with" the second destination address is transmitted. (FF 1.) In other words, the conjunction "with" serves to identify which data packet is transmitted from a first address translator to a second address translator. Giving the claim the broadest, reasonable construction, the limitations merely require transmitting the data packet that is destined for a second destination address.

The destination addressing information included in the TCP packet received by the Gelman's source SNAT (FF 3) constitutes claim 11's "first

destination address." The SNAT's changing the destination addressing information to the destination address of the source gateway (*id.*) constitutes the claim's "chang[ing] the first destination address to a second destination address in the first address translator using the mapping algorithm." The source gateway application's forwarding packets to the destination gateway application (FF 4) constitutes the claim's "transmit[ting] the data packet with the second destination address to a second address translator."

E. CONCLUSION

Based on the findings of facts and analysis above, we conclude that the Appellant has not shown that claim 11 requires including a second destination address in a data packet transmitted from a first address translator to a second address translator.

III. CLAIMS 1-10 AND 21-33

The Examiner finds that "Gelman . . . discloses that this data packet with the second destination address is transmitted from the first/source gateway to the second/destination gateway (col. 9, lines 21-31)." (Answer 19.) He further finds that "[a]s such, Gelman also meets the limitations of 'transmitting the data packet with the second destination address from the first address translator to a second address translator via the network . . .'" (*Id.* 19-20.) The Appellant argues that "independent claims 21 and 26 essentially recite receiving in the second translator from the first translator a data packet 'including' an address, instead of 'with' an address" (Reply Br. 8.)

A. ISSUE

Therefore, the issue is whether the Examiner has shown that Gelman transmits a data packet from a first address translator to a second address translator wherein the data packet includes a destination address.

B. LAW

"[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). "[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim" *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1457 (Fed. Cir. 1984)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986).

C. FINDINGS OF FACT

5. Claim 21 recites in pertinent part the following limitations: "receive in a second address translator from a first address translator a data packet **including** a first destination address, the first destination address representing mapped destination address information" (Emphasis added.) Claim 26 recites similar limitations.

6. Claim 1 recites in pertinent part the following limitations:

transmitting the data packet with the second destination address from the first address translator to a second address translator via the network;

receiving in the second address translator the data packet with the second destination address transmitted via the network;

translating the second destination address back to the first destination address in the second address translator

Claims 31 and 32 include similar limitations.

7. Gelman's "Table 5 shows the format of various message types" (col. 22, ll. 38-39) for the reference's virtual circuits ("VCs"). "An X [in the Table] indicates that the message contains a particular field." (*Id.* ll. 39-40.)

8. The Table shows that a DATA message format includes only a "message type," a "sending connection number," a "data length" and "data." No addresses are included therein.

9. Gelman's claim 19 recites in pertinent part the following limitations: "forwards the packets, without the packet addressing information, in the second protocol over the link" The reference's claim 20 recites in pertinent part the following limitations: "source and destination addresses having been removed from the packets" Gelman's claims 21 and 49 each recite in pertinent part the following limitations: "forwarding packets from the first gateway to the second gateway, and from the second gateway to the first gateway, . . . the packets having had addressing information removed"

D. ANALYSIS

Claims 21 and 26 require that a data packet transmitted from a first address translator to a second address translator expressly include a destination address (FF 5), e.g., as a field in the packet. Because claims 1, 31, and 32 require that a second address translator receive a data packet and translate the packet's destination address (FF 6), these claims implicitly require that a data packet transmitted from a first address translator to a second address translator include a destination address, e.g., as a field therein.

Although Gelman transmits data packets between its source and destination gateways, these packets do not include addressing information. (FF 8.) To the contrary, the reference removes this information from the packets before transmitting the packets between the gateways. (FF 9.)

E. CONCLUSION

Based on the findings of facts and analysis above, we conclude that the Examiner has not shown that Gelman transmits a data packet from a first address translator to a second address translator wherein the data packet includes a destination address.

IV. ORDER

We affirm the rejection of claim 11 and of claims 12-20, which fall therewith. We reverse, however, the rejection of claims 1-10 and 21-33.

Appeal 2008-1337
Application 09/594,100

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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